

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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KOBAYASHI VENTURES, LLC,	:	08 CIV. 04450 (LAP)
	:	
Plaintiff,	:	
	:	<i>Document Filed Electronically</i>
-against-	:	
	:	
PAPERTECH INC.,	:	
	:	
Defendant.	:	
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**PT PAPERTECH, INC.'S NOTICE OF MOTION AND MOTION TO DISMISS FOR
FAILURE TO STATE A CLAIM PURSUANT TO FEDERAL RULE OF CIVIL
PROCEDURE 12(B)(6), AND IN THE ALTERNATIVE FOR SUMMARY
JUDGMENT UNDER FEDERAL RULE OF CIVIL PROCEDURE 56**

Defendant PT Papertech, Inc. (erroneously named and sued as "Papertech Inc." and referred to herein as "Papertech") moves this Court, pursuant to Federal Rule of Civil Procedure 12(b)(6), for an order dismissing the plaintiff Kobayashi Ventures, LLC's ("Kobayashi") First Amended Complaint against Papertech.

This Motion to Dismiss is made pursuant to Federal Rule of Civil Procedure 12(b)(6) on the ground that Kobayashi's First Amended Complaint fails to state a claim against Papertech upon which relief can be granted because (1) no contract between Kobayashi and Papertech exists and (2) the statute of limitation for breach of contract prevents Kobayashi's First Amended Complaint against Papertech.

Alternatively, if the court does not find that this matter can be resolved as a motion to dismiss, Papertech requests that the court convert the motion into one for summary judgment

under Federal Rule of Civil Procedure 56 if necessary.

Papertech's Motion to Dismiss is based on this Notice of Motion and Motion, the concurrently-filed Brief in Support of PT Papertech, Inc.'s Motion To Dismiss For Failure to State a Claim Pursuant To Federal Rule Of Civil Procedure 12(B)(6), and in the Alternative for Summary Judgment Under Federal Rule of Civil Procedure 56, the concurrently-filed Declaration of Oren Warshavsky, the pleadings and papers on file in this action, and such other argument as may be properly received by the Court at the time of hearing.

Dated: July 14, 2008
New York, New York

Respectfully submitted,

BAKER & HOSTETLER LLP

By: s/ Oren J. Warshavsky
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and

J. Rick Taché, Esq. (*pro hac vice* pending)
Janet Lynn Hickson, Esq. (*pro hac vice* pending)
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*Attorneys for Defendant
PT Papertech, Inc.*

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SOUTHERN DISTRICT OF NEW YORK**

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KOBAYASHI VENTURES, LLC,	:	08 CIV. 04450 (LAP)
	:	
Plaintiff,	:	<i>Document Filed Electronically</i>
	:	
-against-	:	CERTIFICATE OF SERVICE
	:	
PAPERTECH INC.,	:	
	:	
Defendant.	:	
-----	x	

I hereby certify that on this the 14th day of July 2008, a true and accurate copy of the foregoing (1) Defendant's Notice of Motion and Motion To Dismiss For Failure to State a Claim Pursuant To Federal Rule Of Civil Procedure 12(B)(6), and in the Alternative for Summary Judgment Under Federal Rule of Civil Procedure 56; (2) Brief in Support of Defendant's Motion; and (3) Declaration of Oren Warshavsky and associated Exhibit A, was served via ECF notification to the following:

Jeffrey Martin Schwaber
Stein, Sperling, Bennett, De Jong,
Driscoll & Greenfeig, PC
25 West Middle Lane
Rockville, MD 20850
Counsel for Plaintiff
Kobayashi Ventures, LLC

by: 
Jason S. Oliver (JO 1676)